


settled as to the Eleventh Amended defenses presented” by Defendant’s Motion to Dismiss. (Doc. 19 at 12.) Accordingly, as the Court carefully considered the arguments raised by both Plaintiff and Defendant, the Court **DENIES** Plaintiff’s Motion to Vacate [Doc. 21].

Because “a motion to dismiss on sovereign immunity grounds is based upon the trial court’s lack of subject matter jurisdiction,” Plaintiff’s request for leave to amend his Complaint [Doc. 21] is **DENIED** as futile. *See Pelham v. Bd. of Regents of Univ. Sys. of Georgia*, 743 S.E.2d 469, 470 n.1 (2013) (“a motion to dismiss on sovereign immunity grounds is based upon the trial court’s lack of subject matter jurisdiction”); *Thomas v. U.S. Postal Serv.*, 364 F. App’x 600, 601 (11th Cir. 2010) (“a dismissal on sovereign immunity grounds should be pursuant to Rule 12(b)(1) because no subject-matter jurisdiction exists”) (citing *Bennett v. United States*, 102 F.3d 486, 488 n. 1 (11th Cir. 1996)).

IT IS SO ORDERED this 12th day of December, 2016.


Amy Totenberg
United States District Judge